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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/205,297	12/04/1998	GEORGE N. VALKANAS	2577-106P	7933

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EXAMINER

CINTINS, IVARS C

ART UNIT	PAPER NUMBER
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1724

DATE MAILED: 04/08/2003

25

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/205,297

Applicant(s)
Valkanas et al.

Examiner
Ivars Cintins

Art Unit
1724



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Jan 23, 2003
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 27 and 29-48 is/are pending in the application.
- 4a) Of the above, claim(s) 36-47 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 48 is/are allowed.
- 6) ☒ Claim(s) 27 and 29-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other: _____

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The disclosure is objected to because the first sentence of the specification following the title fails to contain a reference to the prior international application (i.e. PCT/GR97/00018) for which benefit, under 35 § U.S.C. 120, is being sought (see the declaration, page 1, penultimate line), as required by 37 C.F.R. § 1.78(a)(2). Also, the relationship between this application and the prior application must be indicated, as further required by 37 C.F.R. § 1.78(a)(2).

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 27 and 29-35 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention. The limitation that the product has a porosity of 0.279-0.477 cm³/g" (claim 27, last line) does not appear to be supported by the disclosure originally filed, and hence constitutes **new matter**.

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Claim 48 is allowed because the references of record do not teach or fairly suggest a macroreticular product containing a polymer of the type recited crosslinked with 1,4-dichloromethyl-2,5-dimethylbenzene.

Applicant's arguments filed January 23, 2003 have been noted and carefully considered but are not deemed to be persuasive of patentability. Applicant argues that the porosity range now recited in claim 27 is not new matter because (1) the endpoints of this range are disclosed in the specification; and (2) page 3, lines 27-31 of the specification discloses that porosity increases with increasing crosslinking agent, thereby implying a range of porosity values. Applicant should note, however, that Table 1 on page 4 of the specification shows that porosity only increases when the crosslinking percentage is above 4%; porosity actually decreases when the crosslinking agent is increased from 1% to either 2% or 4% (see lines 2-4 of Table 1). Accordingly, since porosity and degree of crosslinking are not directly related, it is not clear that Applicant's original disclosure supports the entire range of porosity values now recited in claims 27 and 29-35.

Applicant should further note that the data presented in Table 1 on page 4 of the specification represents the polymer SEBS crosslinked with "DMDMB" (see line 1 of Table 1), and not

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with "DCMDMB" (i.e. 1,4-dichloromethyl-2,5-dimethylbenzene), as recited in claims 27 and 29-35. Accordingly, it does not appear that Table 1 on page 4 of the specification supports the porosity range for the specific polymeric product recited in claims 27 and 29-35.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to I. Cintins whose telephone number is (703) 308-3840. The examiner can

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normally be reached on Monday through Friday from 8:30 AM to 5:00 PM.

The fax phone numbers for this art unit are: (703) 872-9311 for "Official" faxes after Final Rejection; (703) 872-9310 for all other "Official" faxes; and (703) 872-9492 for "Draft" and other "Unofficial" faxes.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0661.



Ivars C. Cintins
Primary Examiner
Art Unit 1724

I. Cintins
April 6, 2003